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IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

Contempt Petition NO. 50 /2003

Single Bench

COMPLAINANTS

PETITIONERS

1. Praveen Lakhotia
S/o. Shri Briz Mohan Lakhotia
aged about 33 years
2. Pradeep Lakhotia
S/o Shri Briz Mohan Lakhotia
aged about 27 years,

Both Partners

M/s Ashirwad agency, Bemetra
Tahsil Bemetra Distt. Durg (C.G.)

VERSUS

RESPONDENTS

1. Sethia
General Manager (M.O)
Indian Oil Corporation Limited
Madhya-Pradesh, State-office
16 Arina Hills, Jail Road
Bhopal (M.P.)
2. Kesari Ji.
Collector Durg
Tahsil & Distt. Durg (C.G.)
3. P.K.Sandilya
Tahsildar Bemetra
Distt. Durg (C.G.)
4. R.Muthuswamy
Senior Divisional Manager
Indian Oil Corporation Limited
Raipur-Divisional Office
Aerodrum Road, Raipur (C.G.)



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5. N. Shashi Dharan
Sales Officer
Indian Oil Corporation Limited
Bhilai, Tah. & Distt. Durg (C.G)
6. P.K. Moitra
Advocate
Scindia Nagar, Near-Titwadih
Durg, Tah. & Distt. Durg (C.G)
7. P. Santosh Rao
Town Inspector
Police Station Bemetra,
Tah. Bemetra Distt. Durg (C.G)
8. Proprietor
Ansar Electricles
Near Good Luck Factory
Santoshi-Nagar, Raipur (C.G)

CONTEMPT PETITION UNDER ARTICLE 215 OF
THE CONSTITUTION OF INDIA

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HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Contempt Petition No.50 of 2003

Praveen Kumar Lakhotia & another

- Versus -

Sethia and others

POST FOR ORDER ON 27th SEPTEMBER, 2004

Sd/-
L.C.BHADOO
Judge

HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

Contempt Petition No.50 of 2003

Praveen Kumar Lakhotia & another

- Versus -

Sethia and others

Present: -

Mr. V.G. Tamaskar, Advocate:	For the petitioners
Mr. Bhisma Kingar, Advocate:	For respondent No. 1, 4 & 5

Before Hon'ble Mr. L.C. Bhadoo, J.

ORDER

(Passed on 27/11 September, 2004)

1. The petitioners have preferred this contempt petition under Article 215 of the Constitution of India against eight contemnors mentioning therein that this Court vide order dated 31.05.2001 passed in Writ Petition No.47/2001 ordered that until further orders from this Court respondents are restrained from removing fixtures/outlet equipments fixed at the petroleum outlet. That order is still in force, but in utter disregard of the same on 10.5.2003 under the instructions of contemnor No. 1,2,4 & 5, contemnor No.3, 7 & 8 under the instructions and guidance of contemnors No.6 have broken the locks, removed the fixtures and dispossessed the petitioners from the premises of the said petrol pump.

2. Shri Tamaskar learned counsel for the petitioners while drawing attention towards the memo Annexure R1/9 annexed in W.P. No.1925/2003 argued that the contemnors had deliberately in violation of the Court's order took the possession of the petrol pump, therefore, they are liable for the contempt proceedings. But I do not find any substance in this argument of the learned counsel for the petitioners for the reason that vide order dated 31.5.2001 passed in W.P. No.47/01 this Court ordered that until further orders from this Court the respondents are restrained from removing fixtures and outlet equipment fixed at the petroleum outlet. Perusal of Annexure R1-9 reveals that only possession of the petroleum outlet has been taken by the Corporation for running the petrol pump that too at the repeated request by the Collector, as in that area there was no other petrol pump and general public of the area was facing great difficulties on account of non-availability of the diesel and petrol. The petrol pump and fixtures are existing as it is on the site, therefore, there is no ground for this Court to initiate contempt proceedings against the respondents/contemnors. Even otherwise, perusal of Annexure R1-1 & R1-6 with the reply of Writ Petition No.1925/2003 reveals that the petitioners themselves gave the consent to the Collector, Durg for allotting the land to the respondent Corporation for running the petrol pump and vide Annexure R1-6 the petitioners themselves gave letter to the Sub Divisional Manager of respondent Corporation that if the Corporation run the petrol pump then they have no objection and thereafter, only the petrol pump in question was taken into

possession by the Corporation that too through the Tehsildar, Bemetra. Therefore, on facts no contempt is made out.,

3. Even otherwise the alleged contempt was committed on 10.05.2003, though this contempt petition was filed on 12.5.2004 but so far contempt proceedings has not been initiated, Section 20 of the Limitation Act envisages as under:-

"Section 20. Limitation for action for contempt- No Court shall initiate any proceeding for contempt, either on its own motion or otherwise, after expiry of period of one year or from the date of which the contempt is alleged to have been committed"

In the present case one year has already been expired on 10.05.2003 but so far no proceeding has been initiated and initiation of proceedings has been interpreted by the Hon'ble Apex Court in the matter of Omprakash Jaiswal Vs. D.K. Mittal reported in AIR 2000 SC 1136 in which it has been held that initiation of proceedings for contempt means that the court has taken cognizance after perusal of the record and passed an order to the effect that why the contemnor should not be punished for contempt of court. So far as no such order has been passed, therefore, on the ground of limitation also this contempt petition fails.

4. In the result, I do not find any force in this petition, the petition of the petitioners is liable to be dismissed and same is dismissed.

Sd/-
L.C.BHADOO
Judge

27/11.09.2004

Roshan/-